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WASHINGTON DC 20005

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**FEB 19 2008**

In re Application of :  
Carbone et al. :  
Application Number: 09/582297 : ON. PETITION  
Filing Date: 04/08/2002 :  
Attorney Docket Number: 06975- :  
029006 :

This is a decision on the petition filed on January 2, 2008, to withdraw the holding of abandonment.

This application became abandoned on May 2, 2006, for failure to timely file a reply to the non-final Office action mailed on February 1, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on October 6, 2006.

In the present petition, petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the Notice mailed on February 1, 2006.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on February 1, 2006, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.<sup>1</sup> For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from

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<sup>1</sup> M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Petitioners have supplied a copy of a docket report along with a statement by the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. The docket report is referenced in the practitioner's statement. A Change of Correspondence address has been filed with the petition.

A review of the Official file reveals that the non-final Office action mailed on February 1, 2006, was returned as undeliverable on February 6, 2006.<sup>2</sup>

The showing of record is that the non-final Office action mailed on February 1, 2006, was mailed to counsel Fish & Richardson, 601 Thirteenth Street, NW, Washington DC 20005. However, the address listed in the petition and the Change of Correspondence Address filed with the present petition is Customer No. 26171, Fish & Richardson PC, 1425 K Street, NW, 11<sup>th</sup> Floor, Washington DC 20005-3500.

As such, a question is raised as to whether petitioners were receiving mail at the address of record at the time the non-final Office action mailed on February 1, 2006 was mailed. Petitioners must verify that they were, in fact, receiving mail at the correspondence address listed in the non-final Office action at the time the non-final Office action was mailed, and for a reasonable time thereafter. The showing of record leads to a conclusion that the non-final Office action was returned as undeliverable because petitioners were no longer receiving mail at the correspondence address of record.

Any renewed petition must explain when petitioners' address changed, and explain whether petitioners were receiving mail at the address listed on the non-final Office action at the time the non-final Office action was mailed.

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<sup>2</sup> The Notice of Abandonment mailed on October 6, 2006, was returned as undeliverable on October 12, 2006.

Accordingly, the showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. The petition is DISMISSED.

Additionally, the Change of Correspondence Address filed with the present petition cannot be accepted because it is not signed by an attorney of record. It is noted that the Change of Correspondence Address has been signed by registered practitioner Dmitry Brant, Reg. No. 59,133, for registered practitioner W. Karl Renner, Reg. No. 41,265. Mr. Brant, however, is not an attorney or agent of record in this application. Pursuant to 37 CFR 1.32(a)(2), only a patent practitioner who is of record or is named in the transmittal papers accompanying the original application may change the correspondence address in the application.

A courtesy copy of this decision is being mailed to the address in the petition.

MPEP 601.03 requires an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) to promptly notify the Patent and Trademark Office of a change in the correspondence address. The required notification need take no particular form, but must be provided in a manner calling attention to the fact that a change of address is being made. Petitioner failed to timely inform the Office of the address change. Petitioner should note that merely filing a change of address form with the USPS is not equivalent to filing a change of correspondence address with the Office, and does not satisfy the requirements of MPEP 601.03.

As such, the showing is that there was no irregularity in the mailing of the Office action mailed on February 1, 2006. Rather, the showing of record suggests that petitioners failed to provide the Office with a current correspondence address. As such, the failure to receive the Office action is the fault of petitioner and not that of the Office. As such, the petition to withdraw the holding of abandonment is dismissed.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioners may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

#### **ALTERNATIVE VENUE**

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the Office action mailed on February 1, 2006, has been enclosed for petitioner's reference in preparing the required reply.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By FAX: (571)273-8300  
Attn: Office of Petitions

By hand: Customer Service Window  
Mail Stop Petition  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

Cc

FISH & RICHARDSON PC  
1425 K STREET, NW  
11<sup>TH</sup> FLOOR  
WASHINGTON DC 20005-3500

Encl: Office action mailed February 1, 2006  
PTO/SB/64



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,297	04/08/2002	Kenneth Carbone	06975-029006	1661
7590 02/01/2006				
Fish & Richardson 601 Thirteenth Street N W Washington, DC 20005			EXAMINER OSMAN, RAMY M	
			ART UNIT 2157	PAPER NUMBER

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/582,297		CARBONE ET AL	
	<b>Examiner</b>		<b>Art Unit</b>	
	Ramy M. Osman		2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2002.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-69 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                      |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152). |
| Paper No(s)/Mail Date <u>10/30/03</u>  | 6) <input type="checkbox"/> Other: _____                                     |
| <u>6/23/00</u>   |  |

## DETAILED ACTION

### *Status of Claims*

1. This communication is responsive to application filed on April 8, 2002. Claims 1-69 are pending.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-6,8-13,16-35,37-42,44-48,51-68 rejected under 35 U.S.C. 102(b) as being anticipated by Stevens (TCP/IP Illustrated, Volume 1: The Protocols, 1994).**

4. In reference to claims 1,37, Stevens teaches a method and computer readable medium for asynchronously transferring a plurality of data objects between client and host devices, the method comprising:

transmitting to a client device a plurality of identifiers for data objects, each identifier corresponding to a different one of the data objects to be transferred (pgs 224-226);

transferring over a network between the host and client devices a data frame that includes an identifier and at least a portion of the corresponding data object; and repeating the data frame transfers until the plurality of data objects have been transferred (pgs 12,224-226 & 228, Stevens discloses sending IP datagrams, where each datagram includes a sequence identifier



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corresponding to a TCP segment (i.e. data object); the datagrams are sent until all segments are transmitted).

5. In reference to claims 2,38, Stevens teaches the method and computer readable medium of claims 1,37 respectively, wherein at least two sequential transfers of a data frame include transferring frames with different identifiers (pgs 224-226).

6. In reference to claims 3,39, Stevens teaches the method and computer readable medium of claims 1,37 respectively, wherein the transfers of the portions of at least two data objects are interleaved (pgs 224-226,275-288).

7. In reference to claims 4,40, Stevens teaches the method and computer readable medium of claims 1,37 respectively, further comprising: transmitting a data transfer request from the client device to the host device, the transmission of a plurality of identifiers being in response to the data transfer request (pg 231; bottom half of the page).

8. In reference to claims 5,41, Stevens teaches the method and computer readable medium of claims 1,37 respectively, wherein the transfers are downloads (pgs 229,231,275-288; downloads are inherent feature of data transfer).

9. In reference to claims 6,42, Stevens teaches the method and computer readable medium of claims 1,37 respectively, wherein a portion of the transfers are uploads and a portion of the transfers are downloads, the uploads and downloads being interleaved (pgs 229,231,239,275-288; uploads and downloads are inherent features of data transfers).

10. In reference to claims 8,43, Stevens teaches the method and computer readable medium of claims 1,37 respectively, further comprising: transmitting to the client device a size for data

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frames before the transfers, the data frames transferred being of said size (pgs 236-238, Stevens discloses MSS).

11. In reference to claims 9,44, Stevens teaches the method and computer readable medium of claims 1,37 respectively, further comprising: transmitting a frame count to the client device, the frame count corresponding to the number of data frames that the client device can transfer without receiving a request for more data frames (pgs 236-238,275-288).

12. In reference to claims 10,45, Stevens teaches a method and computer readable medium for asynchronously transferring a plurality of data objects between client and host devices, the method comprising:

transmitting to a client device a plurality of identifiers and routings of one or more handling processes, each identifier corresponding to one of the data objects (pgs 1-3,6,12, Stevens discloses handling processes as the applications specified in the Application Layer of the TCP/IP protocol suite);

transferring between the client and host devices a first data frame that includes a first identifier, a routing of a first handling process, and at least a portion of the data object corresponding to the first identifier; transferring between the client and host devices a second data frame that includes a second identifier, a routing of a second handling process, and at least a portion of the data object corresponding to the second identifier; and repeating the data frame transfers until the plurality of data objects have been transferred (pgs 12,224-226 & 228, Stevens discloses sending IP datagrams, where each datagram includes a sequence identifier corresponding to a TCP segment (i.e. data object); the datagrams are sent until all segments are transmitted).

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13. In reference to claims 11,46, Stevens teaches the method and computer readable medium of claims 10,45 respectively, further comprising: writing the portions of the data objects to first and second storage locations to which the respective first and second identifiers are assigned (pg 224, it is inherent that the data segments will be written into storage).

14. In reference to claims 12,47, Stevens teaches the method and computer readable medium of claims 11,46 respectively, wherein the writes of the first and second portions of the data objects corresponding to the first and second identifiers are controlled by the first and second handling processes, respectively (pg 224).

15. In reference to claims 13,48, Stevens teaches the method and computer readable medium of claims 10,45 respectively, wherein the first and second handling processes handle uploads of data objects for first and second data objects (pgs 1-3,6,12).

16. In reference to claim 16, Stevens teaches the method of claim 10, wherein the request for more data frames includes the routing of the first handling process (pgs 231-232).

17. In reference to claims 17,51, Stevens teaches a method and computer readable medium for asynchronously transferring data between host and client devices, comprising:

receiving from a client device a frame requesting a data transfer session (pgs 12,231-232);

sending to the client device a frame defining a session protocol that assigns an identifier to each data object (pgs 12,236-238); and

transferring a plurality of data frames between the client and host devices, each data frame comprising a data portion of a data object and an identifier assigned to the data object including said data portion (pgs 12,224-226,275-288).

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18. In reference to claims 18,52, Stevens teaches the method and computer readable medium of claims 17,51 respectively, wherein the transferring of data frames includes a data upload (pgs 229,231).

19. In reference to claims 19,53, Stevens teaches the method and computer readable medium of claims 18,52 respectively, further comprising: writing a particular data portion to a storage volume assigned to a particular identifier in response to receiving a data frame including the particular identifier and data portion, unique data objects being assigned to each storage volume (pg 224, it is inherent that the data segments will be written into storage).

20. In reference to claims 20,54, Stevens teaches the method and computer readable medium of claims 17,51 respectively, further comprising: receiving a second frame from the client device requesting a second data transfer session (pgs 231-232); sending a second frame to the client device defining a second session protocol that assigns an identifier to each data object of the second session (pgs 236-238); transferring a plurality of second data frames between the client and host devices, each second data frame including a second data portion and an identifier assigned to a data object including the second data portion (pgs 224-226).

21. In reference to claims 21,55, Stevens teaches the method and computer readable medium of claims 20,54 respectively, wherein the transfers of first and second data frames are interleaved (pgs 224-226,232,239,275-288).

22. In reference to claims 22,56, Stevens teaches the method and computer readable medium of claims 20,54 respectively, wherein the transfers of second data frames are downloads from the host device (pgs 224-226,232).

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22. In reference to claims 23,57, Stevens teaches the method and computer readable medium of claims 17,51 respectively, further comprising: receiving a frame from a second client device requesting a second data transfer session( pgs 231-232); sending a frame to the second client device defining a second session protocol that assigns an identifier to each second data object of the second session (pgs 236-238); and transferring a plurality of second data frames between the second client and host devices, each second data frame including a second data portion of a second data object and an associated identifier (pgs 224-226).

23. In reference to claims 24,58, Stevens teaches the method and computer readable medium of claims 17,51 respectively, further comprising: sending to the client device a routing for a handling program assigned to each data object; and wherein each data frame includes the routing of the handling program assigned to the data object therein (pgs 1-3,6).

24. In reference to claims 25,59, Stevens teaches the method and computer readable medium of claims 24,58 respectively, wherein first and second data objects are assigned first and second handling programs, respectively (pgs 1-3,6,12).

25. In reference to claims 26,60, Stevens teaches the method and computer readable medium of claims 24,58 respectively, further comprising: writing a particular data portion to a storage volume assigned to a particular identifier in response to receiving a data frame including the particular identifier and data portion. unique data objects being assigned to each storage volume (pg 224).

26. In reference to claim 27, Stevens teaches the method of claim 26, further comprising: controlling the write with the handling program assigned to the data object being written (pgs 1-3,6).

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27. In reference to claims 28,61, Stevens teaches a method and computer readable medium for transmitting data over a network between host and client devices, the method comprising:

receiving from a client device a frame requesting one of a data upload session and a data download session (pgs 12,229,231);

establishing a session protocol in response to receiving the frame from the client device (pgs 12,229-232);

transmitting to the client device a frame defining the session protocol (pgs 12,229-232);

receiving from the client device a data frame conforming to the protocol if the frame from the client device requested an upload; and transmitting to the client device a data frame conforming to the protocol if the frame from the client device requested a download (pgs 12,224-226,229-232).

28. In reference to claims 29,62, Stevens teaches the method and computer readable medium of claims 28,61 respectively, wherein the establishing a session protocol includes: assigning a handling program and a storage location to each data object identified in the frame requesting a session; and wherein the transmitting to the client device a frame defining the session protocol includes sending an identifier for the storage location and a routing for the handling program assigned to each data object (pgs 12,224-226,229,231).

29. In reference to claims 30,63, Stevens teaches the method and computer readable medium of claims 28,61 respectively, wherein the transmission of a frame defining the session protocol includes: transmitting a size for data frames to the client device (pgs 236-238).

30. In reference to claims 31,64, Stevens teaches the method and computer readable medium of claims 28,61 respectively, wherein the transmission of a frame defining a session protocol

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includes transmitting a frame count, the frame count being the number of data frames that the client can send prior to receiving a request for more data (pgs 275-288).

31. In reference to claims 32,65, Stevens teaches the method and computer readable medium of claims 28,61 respectively, wherein the transmission of a frame defining a session protocol includes transmitting a format for a command to abort to the client device; and further comprising terminating the session in response to receiving the command to abort from the client device (pgs 231-234).

32. In reference to claims 33,66, Stevens teaches the method and computer readable medium of claims 28,61 respectively, wherein the transmission of a data frame comprises: receiving a frame including an identifier for a storage location, a routing of a handling program, and data to store in the identified storage location; wherein the transmission of a session protocol includes transmitting to the client device the identifier and the routing of the handling program assigned to each data object of the session (pgs 1-3,6,12).

33. In reference to claims 34,67, Stevens teaches the method and computer readable medium of claims 28,61 respectively, wherein the act of transmitting a data frame further comprises: receiving a second message including a second identifier for a second storage location and data to store in the second storage location; and wherein the transmitting a frame defining the session protocol includes transmitting the second identifier to the client device (pgs 224-226).

34. In reference to claims 35,68, Stevens teaches the method and computer readable medium of claims 28,61 respectively, where in the act of establishing includes assigning a storage location and associated identifier to each data object identified in the frame requesting a session (pgs 224-226, 229-234).

***Claim Rejections - 35 USC § 103***

35. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

36. **Claims 7,14,15,36,43,49,50,69 rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (TCP/IP Illustrated, Volume 1: The Protocols, 1994) in view of Applicant Admitted Prior Art (AAPA, disclosure to application 09/582,297).**

37. In reference to claims 7,43, Stevens teaches the method and computer readable medium of claims 1,37 respectively, wherein the transfers of data frames stop at a preselected frame count in the absence of a request for more data frames from a device that receives the data frames.

"Official Notice" is taken that requesting files is old and well-known in the art. It is well known that when a client requests a file that only that particular file is sent, whereupon another file is not sent unless a client requests another file (Stevens, pgs 12 & 229; and AAPA disclosure pgs 1-2). It would have been obvious for one of ordinary skill in the art to stop transfers in the absence of a request because that is a standard of practice in IP communication.

38. In reference to claims 14,49, Stevens teaches the method and computer readable medium of claims 13,48 respectively, wherein the first and second data objects include data for first and second images, respectively ("Official Notice" is taken that image files are well-known in the art. It is well known that files can contain any form of digital data which includes images, among



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other things). It would have been obvious for one of ordinary skill in the art to make the data objects include image file data because that is one of the standard types of data that can be digitized and transferred via IP communication.

39. In reference to claims 15,50, Stevens teaches the method and computer readable medium of claims 10,45 respectively, wherein the transfers of data frames including the first identifier stop at a preselected frame count in the absence of a request for more data frames from a device that receives the data frames

“Official Notice” is taken that requesting files is old and well-known in the art. It is well known that when a client requests a file that only that particular file is sent, whereupon another file is not sent unless a client requests another file (Stevens, pgs 12 & 229; and AAPA disclosure pgs 1-2). It would have been obvious for one of ordinary skill in the art to stop transfers in the absence of a request because that is a standard of practice in IP communication.

40. In reference to claims 36,69, Stevens teaches the method and computer readable medium of claims 35,68 respectively, wherein the data objects comprise: a first image file; and a second image file (“Official Notice” is taken that image files are well-known in the art. It is well known that files can contain any form of digital data which includes images, among other things). It would have been obvious for one of ordinary skill in the art to make the data objects include image file data because that is one of the standard types of data that can be digitized and transferred via IP communication.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO  
December 10, 2005

  
ABDULLAHI SALAD  
PRIMARY EXAMINER

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor:

Application No.:

Art Unit:

Filed:

Examiner:

Title:

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of \_\_\_\_\_ (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_  
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_

- ☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or printed name

\_\_\_\_\_  
Registration Number, if applicable

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or printed name of person signing certificate

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.